



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/150905

PRELIMINARY RECITALS

Pursuant to a petition filed July 26, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 10, 2013, at Sheboygan, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits effective August 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Tim Gessler

Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. Petitioner applied for FS benefits on July 11, 2013. Her household size is one.
3. On July 24, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she is eligible for FS benefits of \$16/month effective August 1, 2013.

4. Petitioner receives unearned income of \$1,504.90/month. She has Medicare premium of \$104.90/month. Her monthly rent expense is \$350.
5. On July 26, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$152 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FoodShare Wisconsin Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FoodShare Wisconsin Handbook, App. 4.6.7.

FS benefits are calculated pursuant to 7 C.F.R. § 273.9. The maximum FS allotment amounts, based on household size, are listed at FoodShare Wisconsin Handbook, Appendix 8.1. In general, a household must initially pass the so-called "gross income limit". The FS eligibility calculation process allows for certain deductions from gross income to arrive at a "net income" then tested against a "net income limit".

In a fair hearing concerning the sufficiency of FS issued, the burden of proof is on the Department to demonstrate that it correctly computed the petitioner's FS allotments, and the petitioner must then rebut this evidence with her own evidence showing the agency was incorrect.

In this case, the Petitioner did not dispute the unearned income or rent expense budgeted by the agency. The Petitioner indicated that she believed her car expenses should be included in determining the amount of her benefits. The federal regulations do not allow car expenses to be considered.

I reviewed the budget screen submitted by the agency. The agency budgeted the Petitioner's unearned income. The Petitioner's countable gross income of \$1,504.90 is under the gross income limit of \$1,916 for a household of one. Thus, the Petitioner passes the gross income eligibility test.

In determining the Petitioner's allotment, the agency must consider net income. From the gross amount of \$1,504.90, the agency gave the Petitioner the standard deduction of \$152 and an expense medical expense deduction of \$69.90 (\$104.90 premium - \$35). The agency properly calculated the excess shelter expense deduction at \$158.90 (\$350 rent + \$450 utility standard - \$641.50, 50% of net income). The Petitioner's net income after these deductions was properly calculated as \$1,124.90. The net income limit for a household size of one is \$956. Because the Petitioner's net income exceeds the net income limit, she is eligible for the minimum allotment of \$16.

CONCLUSIONS OF LAW

The agency properly calculated the Petitioner's FS benefits as \$16/month effective August 1, 2013.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 18th day of September, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 18, 2013.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability